

# ***Frederick-Winchester Service Authority***

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November 3, 2010

**Submitted Online ([www.regulations.gov](http://www.regulations.gov))**

Water Docket  
Environmental Protection Agency  
Mailcode: 28221T  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

**Submitted by Email ([vabaytmdl@dc.virginia.gov](mailto:vabaytmdl@dc.virginia.gov))**

Department of Conservation and Recreation  
Commonwealth of Virginia  
203 Governor Street  
Richmond, VA 23219

**Reference: EPA Water Docket ID No. EPA-R03-OW-2010-0736, Draft Total Maximum Daily Load ("TMDL") for the Chesapeake Bay; and Virginia Chesapeake Bay Watershed Implementation Plan ("WIP")**

To Whom It May Concern:

Thank you for the opportunity to comment on EPA's Draft TMDL for the Chesapeake Bay and Virginia's WIP. The Frederick-Winchester Service Authority, as a regional wastewater provider, has been a longtime participant in the Bay Initiative which is evident from our voluntary participation as far back as 1998 and with the recent completion of enhanced nutrient removal upgrades at our facilities.

We own three (3) municipal wastewater treatment plant ("WWTP") that discharge highly-treated wastewater within the Chesapeake Bay watershed pursuant to state-issued National Pollutant Discharge Elimination System ("NPDES") permit.

Our efforts along with those of over 120 other facilities discharging within the Bay drainage basin have been remarkable to say the least. In our particular case we have accomplished over a 60% reduction in the number of pounds of nitrogen discharged to the Bay while seeing our critical and necessary service grow by nearly 200% since the start of the Bay Initiative. I am sure that no other contributing source can make that claim.

We expect to continue to do our part for the Bay restoration. In fact, two of our facilities, (Opequon Water Reclamation Facility (12.6 MGD) and Parkins Mill Wastewater Treatment Plant (5.0 MGD)) which are designated as significant dischargers have undergone upgrades to ENR facilities.



**"Maintaining and Promoting the Values of the Community through Environmental Stewardship"**

Considering that we have just invested close to \$50M dollars in just treatment enhancements to accomplish ENR levels of treatment and to hear EPA's threats of "backstop" action against us and other facilities raises significant concerns. Here we have invested, along with the Commonwealth, in huge capital projects to meet technology stringent limits along with wasteload allocation caps and it will now all be thrown out the window. Customers will be required to pay for the next twenty or thirty years for useless capital investments coupled with excessive O&M costs. With no changes, we are already anticipating chemical and energy costs to increase by potentially 30%. The outcome of all of this being nothing more than throwing money into a "bottomless pit".

Clearly, we have significant concerns with EPA's Draft TMDL and its fairness. The EPA's threatened "backstop" action against WWTPs does nothing but create a road block for success. As WWTPs and point sources in general show positive results and become a smaller and smaller portion of the pie the roughly 80 percent of the nutrient load attributable to nonpoint sources continues to grow unabated.

As a fix, EPA currently proposes to cut Virginia's stringent nutrient wasteload allocations ("WLAs") currently set forth in Virginia's EPA-approved Water Quality Management Planning Regulation, 9VAC25-720, and Chesapeake Bay Watershed General Permit Regulation, 9VAC25-820 (collectively, the "Virginia Regulations") and possibly the flow basis for allocations to past flow levels (2007 to 2009 average flow rather than design flow). This would reflect an unfair, punitive action by EPA that would do little to advance the Bay cleanup, which honestly depends on major nonpoint source reductions.

EPA is considering these potential cuts under a new EPA guidance letter on "reasonable assurance" and EPA's initial view that Virginia has given inadequate assurance that nonpoint sources (*e.g.*, agricultural sources) will reduce their nutrient loads according to plan. We also question whether EPA's unpromulgated reasonable assurance guidance is even legal given that operates as if EPA's previously proposed but withdrawn reasonable assurance regulation had actually been put into effect.

The Frederick-Winchester Service Authority maintains that the Draft TMDL is fundamentally and materially flawed from its Bay Model and its continual refinements to its vague and undefined reasonable assurance criteria. We believe these deficiencies are thoroughly documented in the comments of the Virginia Association of Municipal Wastewater Agencies, Inc. ("VAMWA"). We request that EPA fully consider and address all of VAMWA's comments, which we generally support and hereby incorporate by reference as if fully set forth herein.

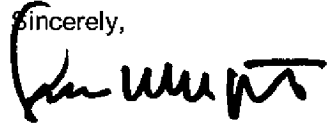
In closing, what is distinctly missing from EPA's Draft TMDL is any appreciation for the major commitments very recently made by EPA and Virginia (the State's adoption and EPA's approval of the Virginia Regulations in 2005 and 2007) and the major financial commitments that local governments have made to implement those requirements including incurring significant public debt and constructing major new and enhanced facilities to meet our equitable share of the task of cleaning up the Bay. As an organization with a demonstrable commitment to clean water, we object to the waste inherent in EPA's threatened override of the Virginia Regulations and Virginia WIP through the Draft TMDL and its elements that relate to our wasteload allocations

For further information, please feel free to contact me directly by telephone at 540-722-3579 or by e-mail at [jmoffett@fredwin.com](mailto:jmoffett@fredwin.com).

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Sincerely,

A handwritten signature in black ink, appearing to read "Jesse W. Moffett". The signature is fluid and cursive, with the first name "Jesse" being more prominent.

Jesse W. Moffett

Executive Director – Frederick-Winchester Service Authority

c: Mr. Alan Pollock, VA DEQ ([alan.pollock@deq.virginia.gov](mailto:alan.pollock@deq.virginia.gov))  
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